

STUART P. LINDNER (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against ALLIED INTERSTATE LLC f/k/a ALLIED INTERSTATE, INC. (“Defendant”):

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereinafter the “FDCPA”), 15 U.S.C. §1692 *et seq.*

2. Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. §1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendant conducts business in the State of Delaware, and therefore,
4 personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2), as Defendant
6 conducts business and a substantial portion of the acts giving rise to this action
7 occurred in this District.
8

9
10 **PARTIES**

11 5. Plaintiff is a natural person residing in Middletown, Delaware, 19702.

12 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.
13 §1692a(3).
14

15 7. In the alternative, Plaintiff is a person granted a cause of action under
16 the FDCPA. See 15 U.S.C. §1692k(a) and Weinrich v. Cole, 2000 U.S. Dist.
17 LEXIS 18687 (E.D. Pa. Dec. 22, 2000).
18

19 8. Defendant is a national debt collection company with its corporate
20 headquarters located at 335 Madison Avenue, 7th Floor, New York, New York
21 10017.

22 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
23 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.
24
25

1 10. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.
4

5 **FACTUAL ALLEGATIONS**

6 11. At all relevant times, Defendant was attempting to collect an alleged
7 consumer debt from Plaintiff.

8 12. Upon information and belief, the alleged debt arose out of
9 transactions, which were primarily for personal, family, or household purposes.
10

11 13. As Plaintiff has no business debt, the alleged debt could only be
12 personal in nature.

13 14. Plaintiff disputes owing the alleged debt.
14

15 15. Beginning in January 2012, and continuing through February 2012,
16 Defendant repeatedly contacted Plaintiff on his work telephone in its attempts to
17 collect a consumer debt.

18 16. Upon information and belief, Defendant is attempting to collect the
19 debt of another person.
20

21 17. It was embarrassing for Plaintiff to receive collection calls at his
22 place of employment, as some of the calls would be received at times when
23 Plaintiff had other individuals in his office, and those individuals could overhear
24 the calls and would inquire to him about why he was being contacted by a debt
25

1 collection company.

2 18. Beginning on January 25, 2012, Plaintiff began noting the frequency
3 of Defendant's collection calls.
4

5 19. Specifically, Plaintiff noted that he received collection calls from
6 Defendant on January 25, 2012; February 2, 2012; February 6, 2012, at 9:10 a.m.;
7 February 7, 2012, at 10:00 a.m.; February 8, 2012, at 9:00 a.m.; and February 9,
8 2012, at 11:45 a.m.
9

10 20. In those instances where Plaintiff did not answer its calls, Defendant
11 would leave voicemail messages on his work telephone instructing him to call
12 back and providing a reference number.
13

14 21. Plaintiff noted that Defendant left voicemail messages on his work
15 telephone on: January 29, 2012, at 9:48 a.m.; February 1, 2012, at 8:38 a.m.;
16 February 3, 2012, at 10:00 a.m.; February 4, 2012, at 9:10 a.m.; and February 5,
17 2012, at 9:03 a.m.
18

19 22. On several occasions, Plaintiff called the number provided in
20 Defendant's voicemail messages, and when he did, he received a pre-recorded
21 message, advising him to press "4" to indicate that he was not the person they
22 were seeking.
23

24 23. When Plaintiff pressed "4," he received a response stating that they
25 were "sorry" and that they would "stop calling."

1 24. Plaintiff was never provided an option to speak with a live person.

2 25. Defendant, however, did not update its records to avoid the further
3 harassment of Plaintiff or undertake any investigation into the information
4 provided by Plaintiff that it was contacting the wrong number.
5

6 26. Defendant continued to call Plaintiff in its attempts to collect a
7 consumer debt.
8

9 27. Plaintiff then tried to get Defendant's attention by composing and
10 sending two (2) emails, again explaining that calls were being placed to the wrong
11 person and instructing them to stop contacting him. Plaintiff provided the
12 telephone number that Defendant was actually calling, as well as the reference
13 number from the recorded messages.
14

15 28. Despite the above efforts, Defendant continued to call Plaintiff, most
16 recently calling him on February 9, 2012, at 11:45 a.m.
17

18 29. Defendant's actions in attempting to collect the alleged debt were
19 harassing, abusive and highly deceptive.

20 **DEFENDANT VIOLATED THE**
21 **FAIR DEBT COLLECTION PRACTICES ACT**

22 29. In its actions to collect a disputed debt, Defendant violated the
23 FDCPA in one or more of the following ways:

24 **COUNT I**

25 a. Section 1692b(2) of the FDCPA prohibits a debt collector from

1 disclosing that a consumer owes a debt when it is communicating
2 with a person other than the consumer for the purpose of acquiring
3 location information.
4

5 b. Section 1692b(3) of the FDCPA prohibits a debt collector from
6 communicating with any person other than a consumer more than
7 once unless requested to do so by such person or unless the debt
8 collector reasonably believes that the earlier response of such
9 person is erroneous or incomplete and that such person now has
10 correct or complete location information.
11

12 c. Here, Defendant violated §§1692b(2) and 1692b(3) of the FDCPA
13 by communicating with Plaintiff more than once about another
14 person's debt, and disclosing the existence of the debt to Plaintiff.
15

16 COUNT II

17 a. A debt collector violates §1692d of the FDCPA by engaging in
18 conduct the natural consequence of which is to harass, oppress, or
19 abuse any person in connection with the collection of a debt.
20

21 b. Here, Defendant violated §1692d of the FDCPA by calling
22 Plaintiff almost every day in its attempts to collect the debt of
23 another person.
24
25

COUNT III

a. A debt collector violates §1692f of the FDCPA by using unfair and unconscionable means in connection with the collection of a debt.

b. Here, Defendant violated §1692f when it failed to update its records to avoid contacting Plaintiff after Plaintiff instructed it to stop calling him and not giving Plaintiff an option to speak with a live person.

WHEREFORE, Plaintiff, STUART P. LINDNER, respectfully prays for a judgment as follows:

a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);

b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. §1692k(a)(2)(A);

c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and

d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, and any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of his claims in this action.

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

Date: 12/17/2012

By: /s/ W. Christopher Componovo

W. Christopher Compton

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